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SENATE BILL 314

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO HEALTH CARE; ENACTING THE SEXUAL ASSAULT SURVIVORS
EMERGENCY CARE ACT; PROVIDING PENALTIES; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Sexual Assault Survivors Emergency Care Act".

Section 2. LEGISLATIVE FINDINGS. -- The legislature finds
that:

A. one out of every five women in the United States
has been sexually assaulted;

B. each year over three hundred thousand women are
sexually assaulted in the United States;

C. a woman is sexually assaulted every six minutes
in the United States;

1 D. New Mexico ranks high when compared with other
2 states in the number of sexual assaults reported each year;

3 E. after a woman is sexually assaulted, she may
4 face the additional trauma of an unwanted pregnancy by the
5 rapist;

6 F. each year over thirty-two thousand women become
7 pregnant as a result of sexual assault and approximately fifty
8 percent of those pregnancies end in abortion;

9 G. emergency contraception, approved for use by the
10 federal food and drug administration, prevents pregnancy after
11 unprotected intercourse;

12 H. emergency contraception cannot and does not
13 cause abortion;

14 I. emergency contraception pills are the most
15 commonly used method of emergency contraception and are similar
16 to ordinary birth control pills;

17 J. emergency contraception pills are as much as
18 eighty-nine percent effective in reducing the risk of pregnancy
19 following unprotected intercourse;

20 K. delaying the first dose of emergency
21 contraception pills by twelve hours increases the odds of
22 pregnancy by almost fifty percent;

23 L. standards of emergency care established by the
24 American medical association require that sexual assault
25 survivors be counseled about their risk of pregnancy and

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1 offered emergency contraception;

2 M most New Mexico hospitals do not have a clear
3 policy on offering emergency contraception to sexual assault
4 survivors and, therefore, few hospitals require staff to inform
5 sexual assault survivors of the availability of emergency
6 contraception; and

7 N. most women of reproductive age do not know about
8 emergency contraception and, therefore, cannot ask for it.
9 Surveys show that only eleven percent of women of reproductive
10 age in the United States have heard of emergency contraception,
11 and fewer still are aware that treatment must begin within
12 seventy-two hours of a sexual assault.

13 Section 3. DEFINITIONS.--As used in the Sexual Assault
14 Survivors Emergency Care Act:

15 A. "department" means the department of health;

16 B. "emergency care for sexual assault survivors"
17 means medical examinations, procedures and services provided by
18 a hospital to a sexual assault survivor following an alleged
19 sexual assault;

20 C. "emergency contraception" means a drug or device
21 approved by the federal food and drug administration that
22 prevents pregnancy after sexual intercourse;

23 D. "hospital" means a facility providing emergency
24 or urgent health care;

25 E. "medically and factually accurate and objective"

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1 means verified or supported by the weight of research conducted
2 in compliance with accepted scientific methods and standards;
3 published in peer-reviewed journals; and recognized as accurate
4 and objective by leading professional organizations and
5 agencies with relevant expertise in the field of obstetrics and
6 gynecology, such as the American college of obstetricians and
7 gynecologists;

8 F. "sexual assault" means the crime of criminal
9 sexual penetration; and

10 G. "sexual assault survivor" means a female who
11 alleges or is alleged to have been sexually assaulted and who
12 presents as a patient to a hospital.

13 Section 4. EMERGENCY CARE FOR SEXUAL ASSAULT SURVIVORS--
14 STANDARD OF CARE. --

15 A. The standard of care for a hospital that
16 provides emergency care for sexual assault survivors shall be
17 to:

18 (1) provide each sexual assault survivor with
19 medically and factually accurate and objective written and oral
20 information about emergency contraception;

21 (2) orally inform each sexual assault survivor
22 of her option to be provided emergency contraception at the
23 hospital; and

24 (3) provide emergency contraception
25 immediately at the hospital to each sexual assault survivor who

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1 requests it.

2 B. The provision of emergency contraception shall
3 include the initial dose that the sexual assault survivor can
4 take at the hospital as well as the subsequent dose that the
5 sexual assault survivor may self-administer twelve hours
6 following the initial dose.

7 Section 5. TRAINING.--A hospital shall ensure that all
8 personnel who provide care to sexual assault survivors are
9 trained to provide medically and factually accurate and
10 objective information about emergency contraception.

11 Section 6. ENFORCEMENT-- ADMINISTRATIVE FINES. --

12 A. Complaints of failure to provide services
13 required by the Sexual Assault Survivors Emergency Care Act may
14 be filed with the department.

15 B. The department shall immediately investigate
16 every complaint it receives regarding failure of a hospital to
17 provide services required by the Sexual Assault Survivors
18 Emergency Care Act to determine the action to be taken to
19 satisfy the complaint.

20 C. The department shall compile all complaints it
21 receives regarding failure to provide services required by the
22 Sexual Assault Survivors Emergency Care Act and shall retain
23 the complaints for at least ten years so that they can be
24 analyzed for patterns of failure to provide services pursuant
25 to that act.

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1 D. If the department determines that a hospital is
2 not providing the services required in the Sexual Assault
3 Survivors Emergency Care Act, the department shall:

4 (1) impose on the hospital a fine of five
5 thousand dollars (\$5,000) per sexual assault survivor who is
6 denied medically and factually accurate and objective
7 information about emergency contraception or who is not offered
8 or provided emergency contraception;

9 (2) impose on the hospital a fine of five
10 thousand dollars (\$5,000) for each month that the hospital
11 provides emergency services following the effective date of the
12 Sexual Assault Survivors Emergency Care Act if the department,
13 after investigating a complaint, determines that the hospital
14 has failed to train hospital personnel to provide medically and
15 factually accurate and objective information regarding the
16 availability and effectiveness of emergency contraception; and

17 (3) after a fine has been imposed for a second
18 time pursuant to either Paragraph (1) or (2) of this
19 subsection, suspend or revoke the license issued by the
20 department pursuant to the Public Health Act or impose an
21 intermediate sanction for licensure violations as provided in
22 Section 24-1-5.2 NMSA 1978 after providing notice to the
23 hospital and affording the hospital an opportunity for a
24 hearing to be held pursuant to the provisions of the Public
25 Health Act and rules of the department.

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Section 7. SEVERABILITY.--If any part or application of the Sexual Assault Survivors Emergency Care Act is held invalid, the remainder of its application to other situations or persons shall not be affected.

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.